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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,) CASE NO. 19-700 RS
14 Plaintiff,)
15 v.) STIPULATION AND ORDER CONTINUING
16 FROYLAN SANCHEZ,) STATUS CONFERENCE AND EXCLUDING TIME
a/k/a Froylan Azhea Martinez-Sanchez,) UNDER THE SPEEDY TRIAL ACT
17 a/k/a Daniel Sanchez Bustos, and)
18 JOSE IVAN SANCHEZ,)
19 Defendants.)

20 The parties are scheduled to appear before the Court on June 9, 2020 at 2:30 p.m. for a status
21 conference. As discussed below, the parties hereby stipulate and respectfully request that the Court
22 order that the status conference presently scheduled for June 9, 2020 at 2:30 p.m. be continued to July
23 21, 2020 at 2:30 p.m., and that time between June 9, 2020 and July 21, 2020 be excluded under the
24 Speedy Trial Act. 18 U.S.C. § 3161.

25 **A. An Exclusion of Time in this Case is Justified Under 18 U.S.C. § 3161(h)(7)(A)**

26 Under 18 U.S.C. § 3161(h)(7)(A), the Court may appropriately exclude time “on the basis of his
27 findings that the ends of justice served by taking such action outweigh the best interest of the public and
28 the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A). Although the Speedy Trial Act does not
STIPULATION AND [PROPOSED] ORDER

1 directly address continuances stemming from pandemics, natural disasters, or other emergencies, this
 2 Court has discretion to order a continuance and exclude time in such circumstances. *See, e.g., Furlow v.*
3 United States, 644 F.2d 764 (9th Cir. 1981) (finding no Speedy Trial Act violation where the district
 4 court granted an ends-of-justice continuance following the eruption of Mt. St. Helens).

5 On May 21, 2020, Northern District of California Chief District Judge Phyllis J. Hamilton issued
 6 General Order No. 72-3, In Re: Coronavirus Disease Public Health Emergency. General Order No. 72-3
 7 supersedes the Court's General Order No. 72-2, and sets forth the Court's finding that—in light of the
 8 ongoing national public health emergency—“[a]ppearances before the district judges may be waived or
 9 postponed, or may be conducted by telephone or videoconference.” General Order 72-3 further provides
 10 that, “[f]or the month of June, in-court proceedings are permitted only for 1) guilty pleas, 2) sentencing,
 11 and 3) evidentiary hearings requiring witness testimony (such as motions to suppress or supervised
 12 release evidentiary hearings),” regardless of a defendant’s custodial status.

13 General Order 72-3 extends the Court’s postponement of criminal jury trials through June 30,
 14 2020. The Order further directs “[e]ach judge assigned to a criminal trial scheduled before July 1, 2020
 15 will make appropriate findings and enter an order tolling time under the Speedy Trial Act.”

16 The parties stipulate that the ends of justice are served by ordering a continuance in this case
 17 outweigh the interest of the public and any defendant’s right to a speedy trial pursuant to 18 U.S.C. §
 18 3161(h)(7)(A). COVID-19 is a global pandemic. On March 19, 2020, to avoid the spread of COVID-
 19, the State of California issued a shelter in place order and directed persons in California to “heed the
 20 current State public health directives.” California Executive Order N-33-20, available at
 21 <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf> (issued March 19, 2020). In recent weeks, the
 22 State’s shelter in place order has been modified, and health officials in various counties have rolled-out
 23 less restrictive public health measures. Within the Northern District of California, these changes have
 24 been gradual and limited.

25 These realities have continued to hamper defense counsel’s ability to meet with the defendants
 26 and with relevant personnel. Additionally, in early May, the government made a second production of
 27 discovery in this case. Counsel for each defendant still need to conduct additional in-person meetings
 28 with their respective clients in order to review the discovery in this case—a considerable portion of

which consists of audio recordings and related transcripts. Such meetings cannot be effectively
accomplished through phone or video conference. The parties believe that it would be more productive
to appear before the Court in July so that defense counsel may have additional time to meet with their
respective clients and review the discovery. This will also provide the parties with an opportunity to
meaningfully discuss potential resolutions of this case.

B. The Parties Stipulate to a Continuance and to the Exclusion of Time

In light of these considerations, the parties hereby stipulate and respectfully request that the status conference currently scheduled for June 9, 2020 at 2:30 p.m. be continued to July 21, 2020 at 2:30 p.m. The parties further stipulate and respectfully request that the time between June 9, 2020 and July 21, 2020 be excluded under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A) and (h)(7)(B)(iv). The parties stipulate that the ends of justice served by the granting of such continuance outweigh the best interest of the public and the defendants in a speedy trial, and that a failure to grant the requested exclusion of time would unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

IT IS SO STIPULATED.

DATED: June 1, 2020

DAVID L. ANDERSON
United States Attorney

/s/
SLOAN HEFFRON
Assistant United States Attorney

/s/
CANDIS MITCHELL
Counsel for Defendant Froylan Sanchez

/s/
JULIA JAYNE and ASHLEY RISER
Counsel for Defendant Jose Sanchez

ORDER

Based on the assertions and agreement of the parties, as set forth in the stipulation dated June 1, 2020, as well as for the reasons set forth in this Court's General Order No. 72-3, this Court finds that a continuance of the status conference from June 9, 2020 to July 21, 2020 at 2:30 p.m. is warranted. The Court further finds that the ends of justice served by excluding time from June 9, 2020 through July 21, 2020 from computation under the Speedy Trial Act outweigh the best interests of the public and the defendants in a speedy trial, and that a failure to exclude time during this period would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. §3161(h)(7)(A), (B)(iv).

Accordingly, IT IS HEREBY ORDERED that the status conference in the above-captioned matter now set for June 9, 2020 be continued to July 21, 2020 at 2:30 p.m. IT IS FURTHER ORDERED that the time from June 9, 2020 through July 21, 2020 shall be excluded from computation under the Speedy Trial Act. 18 U.S.C. § 3161(h)(7)(A), (B)(iv).

IT IS SO ORDERED.

DATED: June 1, 2020


HONORABLE RICHARD SEEBORG
United States District Judge